

BIRNBERG & ASSOCIATES  
CORY A. BIRNBERG (SBN 105468)  
703 Market Street Suite 600  
San Francisco, California 94103  
Telephone Number: (415) 398-1040  
Facsimile Number: (415) 398-2001

Barbara Norris (Ak. No. 8506070)  
LAW OFFICES OF BARBARA NORRIS  
645 W. Third Ave.  
Anchorage Alaska 99501  
Telephone Number: (907) 279-6621  
Facsimile Number: (907) 279-0199

Attorneys for Defendants  
Woodbine Alaska Fish Company,  
and Guy Ferrari Inc.

**IN THE UNITED STATES DISTRICT COURT  
DISTRICT OF ALASKA**

CITICAPITAL COMMERCIAL CORP, )  
Plaintiff, )  
v. )

**Case No. A-04-0147 CI  
IN ADMIRALTY**

EGEGIK SPIRIT, official number 2999957, )  
her equipment, gear, furniture, apparel, )  
fixtures, tackle, boats, machinery, anchors )  
and all appurtenances, in rem; )  
NAKNEK SPIRIT, official number 585824, )  
her equipment, gear, furniture, apparel, )  
fixtures, tackle, boats, machinery, anchors )  
and all appurtenances, in rem; )  
WOODBINE ALASKA FISH CO., )  
in personam; and GUY FERRARI, INC, )  
in personam. )

**MOTION FOR TELEPHONIC  
APPEARANCE AND [proposed]  
ORDER THEREON**

**[L.R. 7.3]**

**Date: March 28, 2006  
Time: 9:30 a.m.  
Courtroom: 6**

**Honorable Magistrate John D.  
Roberts**

Defendants, )

BIRNBERG &  
ASSOCIATES  
703 MARKET STREET  
SUITE 600  
SAN FRANCISCO  
CA, 94103  
TEL (415) 398-1040  
FAX (415) 398-2001

1 Now come Woodbine Alaska Fish Company for itself, and on behalf of its vessel,  
 2 the *Egegik Spirit*, and Guy Ferrari, Inc., for itself and on behalf of its vessel the *Naknek*  
 3 *Spirit*, and hereby move for an order permitting a telephonic appearance at the hearing on  
 4 motion for summary judgment.

### 5 **BACKGROUND**

6  
 7 Cory A. Birnberg of Birnberg & Associates, located in San Francisco, California,  
 8 presently has a mandatory settlement conference that morning, ending immediately before  
 9 this hearing in the case of *Bashiri v. Radio Shark* at 455 Golden Gate Avenue, in San  
 10 Francisco, California, and two court appearances the day prior and one the day afterward,  
 11 all of which were on calendar from before this Court set up the present hearing. Mr.  
 12 Birnberg therefore cannot fly to Alaska to appear for the hearing in person. Defendants  
 13 respectfully request that they be permitted to appear telephonically.

14  
 15 Mr. Birnberg has been permitted to appear telephonically previously, and the law  
 16 firm of Birnberg & Associates is primarily responsible for opposing the summary judgment  
 17 motion presently before this Court.

### 18 **ARGUMENT**

19  
 20 Local Rule 7.3(a) states that “The court may allow one or more parties, counsel,  
 21 witnesses or the court to participate telephonically in any hearing or deposition for good  
 22 cause and in the absence of substantial prejudice to any party.”

23  
 24 Good cause exists to permit Mr. Birnberg to appear telephonically because  
 25 Defendants will be severely prejudiced without being able to present oral argument in  
 26 opposition to Plaintiff’s motion for summary judgment.

On the other hand, no prejudice to Plaintiff will result from this accommodation. Plaintiff's substantive rights and ability to argue its motion are completely unaffected by this accommodation.

### **CONCLUSION**

For the foregoing reasons, Defendants respectfully request that they be permitted to appear telephonically at the hearing on Plaintiff's motion for summary judgment on March 28, 2006.

Dated: 21 March 2006

BIRNBERG & ASSOCIATES

By: /s/ Cory A. Birnberg  
 Cory A. Birnberg  
 Attorneys for Defendants  
 BIRNBERG & ASSOCIATES  
 703 Market Street Suite 600  
 San Francisco, California 94103  
 Telephone Number: (415) 398-1040  
 Facsimile Number: (415) 398-2001  
 Email: [birnberg@birnberg.com](mailto:birnberg@birnberg.com)  
 California State Bar No. 105468  
 Attorneys for Defendants

### **ORDER**

Based upon the foregoing motion and good cause appearing therefore, IT IS SO ORDERED that Defendants may appear telephonically for the hearing on Plaintiff's motion for summary judgment set for March 28, 2006 at 9:30 a.m. in courtroom 6. In accordance with Local Rule 7.3(b)(2), Mr. Birnberg's office shall contact the Court's case management clerk for instructions on how to proceed.

Dated:

By \_\_\_\_\_  
 Honorable Magistrate John D. Roberts

BIRNBERG &  
 ASSOCIATES  
 703 MARKET STREET  
 SUITE 600  
 SAN FRANCISCO  
 CA, 94103  
 TEL (415) 398-1040  
 FAX (415) 398-2001